

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
The Use of N11 Codes and) CC Docket No. 92-105
Other Abbreviated Dialing)
Arrangements)

PETITION FOR RECONSIDERATION OF
THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.
AND
THE INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION

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EXECUTIVE SUMMARY

While IAFC and IMSA are troubled by and opposed to any expansion of the N11 codes for non-emergency and commercial uses, this Petition focuses on the Commission's assignment of the 311 codes for non-emergency calls to police and other government services.

The 311 assignment carries with it the *certainty* of caller confusion between 311 and 911 answering points. That caller confusion, exacerbated by optional implementation and the apparent exclusion of wireless carriers from any obligation to carry 311 calls, ensures that existing 911 emergency calling systems will be negatively impacted.

The record contains no evidence to offset these demonstrated negative consequences, in part because the *Order* punts consideration of most issues to state and local jurisdictions, including the technical issues associated with implementation. Essentially, the *Order* rests on speculation as to benefits that are ultimately unattainable (access from any exchange) and contrary to the evidence (311 access that does not hamper others' access to 911 services).

The Commission's *Order* poses a grave risk to the sanctity of the emergency calling services. The Commission should grant this Petition and conduct a reasoned consideration of the wide-ranging issues raised by concerned parties.

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¹ *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-51 (released Feb. 19, 1997) (hereinafter the *N11 Order* or *Order*).

Among their many activities, IAFC and IMSA members and their respective public safety agencies operate Public Safety Answering Points (PSAPS) and rely on 911 emergency calling systems for receipt of emergency notifications from the general public.² The Commission's 311 assignment will increase caller confusion, thereby undermining the 911 concept and jeopardizing emergency calling systems. Because the 311 assignment is neither supported by the record nor in the public interest, petitioning parties respectfully urge the Commission to reconsider.

I. N11 CODES SHOULD NOT BE ASSIGNED FOR NON-EMERGENCY SERVICES IF THERE EXISTS EVEN THE PROSPECT OF CONFUSION WITH EMERGENCY SERVICES

For decades, widespread use of the N11 codes in the vast majority of communities has been reserved for fundamental "public interest" uses: local directory

² IMSA is a non-profit organization dedicated to the development and use of electric signaling and communications systems in the furtherance of public safety. The members of IMSA include representatives of federal, state, county, city, township, and borough governmental bodies and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to the activities pertaining to electrical engineering, including the Public Safety use of radio technology.

IAFC is a voluntary, professional membership society. Its approximately 10,000 members comprised of senior Fire Service officials are dedicated to the protection of life and property throughout the United States and abroad. IAFC is the major national professional association representing the interests of senior management in the Fire Service.

assistance (411) and emergency services (911). Despite this public interest tradition, the Commission's *Order* now makes the N11 codes available for a range of uses, including information services. If allowed to stand, the *Order* ensures that the hard-earned status of the 911 number will be lost over time.

The Commission's eagerness to open the N11 codes for non-emergency and commercial uses indicates that it fails to recognize the special significance that the N11 codes have in callers' minds. Opening these codes diminishes that significance by rendering the N11 numbers just another form of speed dialing. Rather than denoting some unique service dependent upon abbreviated dialing, the N11 code will represent little more than a taxpayer-funded convenience for those callers unwilling to take the time or make the effort to use directories or dial a seven (or ten) digit number.

That convenience, however, comes with a price that the Commission's *Order* fails to acknowledge, much less substantively address: the virtual certainty that an N11 non-emergency number will impair the ability of 911 emergency calling systems to discharge their duties. While concerns presently exist with respect to establishing an interface between emergency and non-emergency numbers, those concerns are exacerbated by the similarity of the 311 and

911 numbers. In implementing jurisdictions, for example, 911 emergency calling systems can anticipate more mis-routed calls, more transfers from non-emergency answering points, and more multiple transfers, among other problems.³

Critical response time will be lengthened when transfers are made from 311 answering points that do not convey automatic number or automatic line information (ANI/ALI). Though the public is likely to expect operator training and performance standards that are comparable between the services, nothing guarantees - or even contemplates - such a result. These issues, as well as those discussed below, divert resources and attention from performance of 911-related duties.

Though intended as a response to congestion experienced by some 911 emergency calling systems, the Commission's assignment of a nationwide 311 number for non-emergency calls creates more problems than it solves. While it may serve the narrow interests of certain parties, it does so at the expense of most 911 emergency calling systems and, ultimately, the public at large. The Commission is urged to

³ Multiple transfers will occur when a caller dials 311 and is transferred to a 911 operator, who then determines that the call is not an emergency. The "multiple transfer" problem may present special problems for members of the speech and hearing-impaired community, since their calls to the two services may be subject to different standards under the Americans with Disabilities Act (ADA): "direct access" for emergency services, as opposed to "functionally equivalent" access for non-emergency services.

reconsider its *N11 Order*. N11 codes, which represent a scarce public resource, should be reserved for broad-based public interest uses; and any assigned uses must not threaten emergency calling systems.

II. AN N11 ASSIGNMENT THAT INCREASES BOTH CALLER CONFUSION AND BURDENS ON 911 SYSTEMS IS NOT IN THE PUBLIC INTEREST

Though the Commission depicts 311 as a nationwide service that can be accessed "from any exchange,"⁴ it also insists that local jurisdictions remain free to determine whether to activate the service. Optional activation, however, ensures that callers will not be able to dial 311 to access non-emergency police services in all areas.

The result will be caller confusion, particularly in large metropolitan areas comprised of multiple jurisdictions with boundaries that, with respect to the general population, are becoming increasingly blurred. That confusion is certain to place an even greater strain on 911 emergency systems in non-implementing jurisdictions than already exists.

Confusion is certain to be further engendered by the Commission's apparent decision to exempt commercial mobile

⁴ *N11 Order* at para. 36.

radio service (CMRS) providers from 311 obligations.⁵ Thus, in implementing jurisdictions, callers will need to determine the technology behind the carriage of their call to determine whether they can access 311 or not. Wireline callers in participating jurisdictions, for example, will be able to access both 311 and 911; wireless callers, however, will be able to access only 911. Wireless callers that are unable to access 311 in implementing jurisdictions are likely to "try" 911 to access non-emergency services. This type of confusion is certain to increase over time as carriers implement wireless local loop services.

While the *Order* refers to "benefits of a national N11 assignment for non-emergency calling in those communities choosing to use 311,"⁶ it addresses neither the burdens the Commission's action places on those communities that elect not to use 311, nor the burdens placed on existing 911 emergency calling systems that must struggle with caller confusion, regardless of its source. For example, the

⁵ The Commission notes that because 311 service is distinct from 911 service, "it is not our intention . . . to impose the same types of obligations on wireless providers with regard to 311 service as we did with regard to 911 service." *311 Order* at para. 43. The *Order* does not identify the obligations, if any, of CMRS providers.

⁶ *N11 Order* at para. 39, in which the Commission notes that the benefits in these communities "outweigh the implementation concerns, which are most appropriately addressed by local governments."

Commission has failed to consider and attempt to mitigate confusion that will result from, *inter alia*, differing carrier obligations (wireline/wireless), call origination in jurisdictions that have not activated 311 (likely to be particularly acute in those metropolitan areas that are comprised of multiple jurisdictions), variable access to "other government services," and a touchpad "3" that translates to "E" for emergency.

The certainty of caller confusion raises serious safety and technical concerns, none of which the Order addresses. For example, even with a trained staff, critical delay is inevitable in responding to emergency calls unless the non-emergency system is configured to identify the caller's PSAP and can convey the caller's automatic number identification (ANI) and/or automatic line information (ALI) to that PSAP. ANI/ALI transmission is of particular importance in those situations when the PSAP location differs from the location of the non-emergency answering point, as when a single PSAP serves large regions or an entire state.⁷ Commission direction on this point is critical, because ANI/ALI

⁷ See, *N11 Order* at para. 30; IMSA/IAFC also raised this issue in their comments at pp. 7-8. Not all jurisdictions appear to appreciate the significance of this item: while the County of Los Angeles and Los Angeles Police Department support ANI/ALI platforms for both emergency and non-emergency calls, the City of Houston contends that ALI will not be needed for 311 service.

transmission will generate additional implementation costs, which activating jurisdictions will be under significant pressure to contain. Despite the tremendous impact on public safety, the Order's discussion paragraphs fail to even acknowledge the issue.⁸

Ultimately, the Commission has failed to consider a threshold issue - whether, given the certainty of caller confusion, a 311 assignment for non-emergency services will negatively impact 911 emergency services. Having failed to consider this fundamental issue, the Commission lacks any basis to conclude that, *on balance*, its decision to assign 311 for non-emergency use is in the public interest.⁹

III. THE ORDER DESCRIBES BENEFITS OF 311 THAT RUN COUNTER TO LAW AND THE RECORD EVIDENCE

A. To Achieve Intended Benefits, The Order Must Be Construed As An Impermissible Unfunded Federal Mandate

As noted, the Commission's conclusions as to the benefits of a 311 assignment are premised on nationwide, uniform implementation:

⁸ The *Order* provides only that "[s]tates and local governments may deploy 311 through their 911 centers or devise alternative procedures for routing and answering 311 calls." *N11 Order* at para. 42. This oblique statement suggests that ANI/ALI implementation is an issue to be determined at the local level.

⁹ The Commission's public interest conclusion is discussed in paragraph 35.

Eventually, the use of a single N11 code nationwide for non-emergency calls will let callers know that they can dial this code *from any exchange* (to obtain necessary governmental services) without hampering others' access to 911 for emergencies.¹⁰

Though it asserts that localities are free to determine whether to activate 311, optional implementation cannot be reconciled with a service that provides access *from any exchange*.

The *N11 Order* fails to provide for the funding of 311 service. Because the stated benefits of a nationwide N11 code for non-emergency calls depends upon activation of 311 in all jurisdictions, however, the *Order* constitutes an implicit federal mandate to states and local governments to activate 311 and resolve associated issues, including but not limited to implementation, cost recovery for telecommunications providers, and inter and intra-jurisdictional disputes.¹¹

In *New York v. United States*, 112 S. Ct. 2408, 120 L.Ed. 2d 120 (1992), the Court made clear that the constitutional

¹⁰ *N11 Order* at para. 36 (emphasis added).

¹¹ State regulatory commissions will be obligated to expend their resources, as well, since the *Order* charges them with the responsibility of resolving "conflicting requests for use of 311 (for example situations in which city and county law enforcement agencies both request 311 implementation in the same geographic area)." *N11 Order* at para. 37. This type of jurisdictional dispute resolution is not the type of activity customarily performed by state agencies that regulate telecommunications.

principles of state sovereignty restrict the federal government not only from compelling the states to enact a federal regulatory program, but also from administering such a program. *Id.* at 2435, 120 L.Ed. 2d at 158. Federal action that commandeers the legislative processes of the states to administer a federal program exceeds the powers delegated to Congress by Article 1, Section 8 of the United States Constitution and violates the Tenth Amendment of the Constitution.

The Commission has concluded that funding is "a local issue."¹² The Order thus "passes the buck" to state and local governments. The Commission's complete disregard of funding issues renders its implicit mandate to activate 311 impermissible.

B. The Record Fails To Support The Commission's Conclusions Regarding Anticipated Benefits

Part of the stated benefit of 311 - caller access *from any exchange* - is premised on a result that has no prospect of occurring absent federal mandate. That described benefit, in fact, is inconsistent with the express terms of the *Order*, which provide for optional rather than mandatory implementation. The record offers no basis to conclude that optional implementation will result in universal coverage; indeed, although 911 has been designated as a national

¹² *N11 Order* at para. 42.

emergency code for thirty years, the record establishes that nationwide implementation of 911 service has yet to be achieved.¹³

According to the Commission, the use of a single N11 code not only "will let callers know that they can dial this code from any exchange (to obtain necessary governmental services)," but also will allow them to do so "without hampering others' access to 911 for emergencies."¹⁴ Just as the record fails to support the prospect of universal implementation, it fails to support the conclusion that 311 activation will not affect the operation of 911 emergency calling systems.

Because the *Order* was issued before the completion of even a single 311 trial, the record contains no evidence establishing that a non-emergency N11 number will alleviate the congestion experienced by certain Public Safety Answering Points (PSAPs).¹⁵ In fact, the record includes

¹³ As of late 1996, approximately only 87 percent of the population in the United States was served by 911. *N11 Order* at fn. 79.

¹⁴ *N11 Order* at para. 36 (emphasis added).

¹⁵ On October 2, 1996, Baltimore implemented a two-year test of the 311 non-emergency number. Baltimore undertook that trial with substantial support from both the Department of Justice (\$350,000 in funding) and AT&T (donated phone lines and an investment of over \$1 million). That test was initiated after the September 10, 1996 public notice in this proceeding and only eight days before the comment filing deadline. Thus, any comments touting Baltimore's experience should be disregarded as mere speculation and, if filed by
(continued...)

substantial evidence to the contrary. Comments submitted by those most intimately involved with 911 operations demonstrate that a 311 assignment will negatively affect 911 emergency calling systems.¹⁶ The *Order's* conclusory statement that 311 callers will not hamper others' access to 911 for emergencies is thus unsupported and runs counter to the substantial evidence before the Commission.

Optional implementation, in conjunction with the absence of any funding, guarantees a patchwork of participating and non-participating jurisdictions, thereby ensuring that callers will not be able to access 311 from all exchanges. Given the absence of record support for the Commission's depiction of the benefits associated with a national 311 assignment for non-emergency calls to police

¹⁵ (...continued)

participating parties, as self-serving. Because the Commission released its *Report and Order* less than five months into that trial, any conclusions it may have drawn regarding Baltimore's experience with 311 are premature and speculative. Moreover, it is doubtful whether other communities will receive such financial aid as provided to Baltimore; and its experience therefore would not be relevant to implementation of 311 generally. Significantly, the Commission's discussion of the benefits of a 311 non-emergency number are predicated on the experiences of communities that use a seven or 10 digit non-emergency number.

¹⁶ In addition to IMSA and IAFC, parties opposed to the requested 311 assignment included (among others) "several state 911 communications centers" and parties the Commission collectively identified as the "National 911 Commenters." *N11 Order* at para. 32. The concerns underlying this opposition are summarized at paragraph 33.

and other government services, it is appropriate for the Commission to reconsider its *Order*.

IV. THE ORDER SUFFERS FROM ADDITIONAL DEFICIENCIES

A. The Order Shunts Key Issues To State And Local Governments

Various parties opposed the requested 311 assignment, raising a number of concerns. The *Order* fails to address these concerns. The plain language of the *Order* reveals that virtually all issues were shunted to state and local governments for their resolution, without even a modicum of Commission consideration:

While we acknowledge that many commenters raise concerns about using 311 for non-emergency police calls (citing the possibility of user confusion with 911, technical issues related to implementation, costs, funding, and the potential effects on the 911 system), we find, nonetheless, that the benefits of a national N11 assignment for non-emergency calling in those communities choosing to use 311 will outweigh the implementation concerns, which are most appropriately addressed by local governments.¹⁷

Thus, difficult issues associated with 311 remain outstanding: funding,¹⁸ cost recovery for

¹⁷ N11 *Order* at para. 39.

¹⁸ N11 *Order* at para. 42. Though not mentioned in the *Order*, funding possibilities include a monthly surcharge (similar to 911) or "pay-per-call" (similar to directory assistance call completion services).

telecommunications providers,¹⁹ technical issues related to implementation,²⁰ and concerns as to the potential effects on the 911 system.²¹ It appears that the Commission even delegated to state and local governments the designation of entities that may make a request for 311 activation.²² In the absence of Commission consideration and guidance, state and local governments are now left to devote substantial resources to resolving these complex issues on their own.²³

Rather than address the issues in a substantive fashion, the *Order's* discussion paragraphs merely mention key categories of concerns raised by the parties. Such a cursory recitation fails to satisfy an agency's obligation

¹⁹ *Id.*

²⁰ *N11 Order* at para. 39. Though not discussed in the *Order*, implementation issues appear to be complicated when a single telephone switch services two or more jurisdictions, only one of which activates 311.

²¹ In apparent response to this last issue, the *Order* provides that "[s]tates and local governments may deploy 311 through their 911 centers or devise alternative procedures for routing and answering 311 calls." See paragraph 42.

²² The *Order* fails to designate eligible entities. Rather, it merely states that "[w]hen a provider of telecommunications service receives a request from an entity (for example a local police chief or local fire chief) to use 311 for access to non-emergency police and other government services in a particular jurisdiction. . . ." *N11 Order* at para. 35.

²³ A decision not to activate 311 service may also require the expenditure of political capital, as the complex fiscal and technical considerations are unlikely to be easily conveyed.

to consider the important aspects of a given problem. Had the Commission considered these issues, it may have realized that an N11 assignment carried significant risks for existing 911 emergency calling systems. Those risks exist because the N11 assignment for non-emergency calls both undermines the sanctity of an N11 number for true emergencies and, for technical reasons that remain unexplored by the Commission, fails to alleviate the congestion experienced by certain PSAPS.

B. The Order Substitutes Speculation For Reasoned Consideration

The Order sidesteps the sole remaining concern it acknowledges - the possibility of user confusion with 911 - by expressing confidence in local education programs that have yet to be designed and tested.²⁴ Legitimate concerns, however, cannot be dismissed by optimistic anticipation. Indeed, if educational efforts warranted the confidence the

²⁴ "We are confident that, to lessen the possibility of confusion between 311 and 911, local education programs. . . will focus on the importance of continuing to dial 911 in real emergencies." *N11 Order* at para. 39. This statement underestimates the magnitude of the task. Situations that constitute "real emergencies" may not be clear in the public's mind and almost certainly will vary by community. Once the decision to activate 311 has been made, "the community" - by some process that has yet to be established - must clearly delineate the allocation of responsibilities between 311 and 911 answering points. Local education programs then must take on the additional tasks of instructing the public when and for what purpose(s) to use 311, in addition to reinforcing their long-standing messages regarding 911.

Commission displays, 911 systems currently would not be receiving measurable amounts of non-emergency calls.

The *Order* attempts to divert attention from the critical issue of caller confusion by speculating that 311 will reduce the number of non-emergency calls to 911:

Some of the concerns that lead certain parties to suggest alternatives to a national N11 numbers for non-emergency calls . . . are the same reasons that have led us to find an N11 number superior to those alternatives: namely, the similarity to 911. While it may be technically possible to implement the alternatives above, the similarity between an N11 number and 911 will make the non-emergency number both easy to remember and easy to use, *thus resulting in greater reduction of non-emergency calls on 911 emergency circuits.*²⁵

No empirical data supports the preceding discussion.²⁶ The conclusion that non-emergency calls to 911 will drop is predicated solely on the possibility that "use of an N11 code *could* alleviate congestion on 911 circuits, which *could* permit more effective operation of 911 emergency services."²⁷ Given the absence of any substantive support for its position, the Commission has no basis to disregard the

²⁵ N11 Order at para. 39 (emphasis added).

²⁶ Indeed, certain parties raised as a concern the inability to analyze the results of the Baltimore 311 Trial prior to a Commission decision in this matter.

²⁷ N11 Order at para. 35 (emphasis added). The *Order* includes no data on congestion, although in paragraph 39 the Commission acknowledges that "not all 911 circuits are congested."

legitimate concerns of parties most intimately involved in the operations of 911 emergency calling systems.²⁸

The Commission apparently posits that the anticipated reduction will result from caller preference for the "easy to remember, easy to use" 311 number. That caller preference, however, can easily be transferred to 911 when the 311 calling system responds in what the caller perceives to be a sluggish fashion - a behavioral response that the Commission has chosen to ignore.²⁹ Conversely, legitimate emergency calls to 911 which do not receive a prompt answer may result in callers hanging up and dialing 311. Both of these results are likely to occur. However, the Commission has chosen to disregard all concerns relating to caller behavior and confusion - as well as all other outstanding issues - in favor of its unsubstantiated speculation that there will be effective educational programs and that callers will respond to those future educational efforts by using both 311 and 911 for their designated purposes.

²⁸ In addition to IAFC/IMSA, parties with responsibility for 911 operations that opposed the 311 assignment included several state 911 communications centers, the National Emergency Number Association (NENA), and the National Association of Nine One One Administrators (NANA).

²⁹ Behavioral considerations should be given serious attention. The congestion that certain 911 systems are currently experiencing results in large part from the public's failure to reserve the 911 number for its explicit and well-known purpose: emergency calls.

C. The Order Is Internally Inconsistent

To avoid caller confusion, many parties suggested alternatives to an N11 assignment for non-emergency calls, including "a three digit number without '11' as the last two digits (such as 222), an 800 number, or a seven digit number."³⁰ The Order includes no discussion of these alternative approaches, other than to state that

[s]ome of the concerns that lead certain parties to suggest alternatives . . . are the same reasons that have led us to find an N11 number superior to those alternatives: namely, the similarity to 911. While it may be technically feasible to implement the alternatives above, the similarity between an N11 number and 911 will make the non-emergency number both easy to remember and easy to use, thus resulting in greater reduction of non-emergency calls on 911 circuits.³¹

Thus, the Commission essentially dismisses the parties' concerns and rejects their proposed alternatives without discussion.

It is incredible that the Commission has chosen to ignore the warnings regarding caller confusion and resultant strains on 911 systems made by diverse parties having emergency response experience and operational responsibility, in favor of benefits the Commission *speculates* will flow from an "easy to remember, easy to use" non-emergency number. Its reliance on this speculation is

³⁰ N11 Order at para. 40.

³¹ *Id.*

all the more incredible given that the *Order* rejects as "conjecture" similar customer convenience arguments raised in the context of information services.³²

Significantly, the Commission's two responses supporting its rejection of an "easy to remember, easy to use" information services number apply with equal force to the 311 assignment for non-emergency services: (1) that an N11 assignment is "by no means essential to making the service available;" and (2) whatever benefits consumers may perceive does not warrant the "drain on scarce N11 resources."³³

This internal inconsistency, which permeates the *Order*, surfaces again in the Commission's rejection of the GSA's 1994 request for an N11 code to access federal agencies while at the same time it grants, in part, the NASTD's analogous request for an N11 code to access state agencies.³⁴

³² "The parties offer only conjecture that, from a user's perspective, using N11 codes significantly enhances the quality of access to information services." *N11 Order* at para. 20 (emphasis in original).

³³ *Id.*

³⁴ As the basis for its rejection of the General Services Administrations's 1994 request, the Commission speculates that "[e]ven though they are not 911 emergency situations, we find an element of urgency *likely* attaching to calls to police that is lacking when the public is seeking access to other government services." *N11 Order* at para 44 (emphasis added).

The evidence and arguments before the Commission should result in consistent decisions in analogous situations. As these examples demonstrate, however, the Commission's conclusions and decisions are not consistent. The result is an *Order* that, with respect to the assignment of 311 for non-emergency police and "other" government services, disregards its own internal logic and conclusions. This inconsistency is the antithesis of rational decision-making.

D. These Flaws Render The Order Arbitrary And Capricious

It is well-established that an agency acts arbitrarily and capriciously if, like the Commission in the instant case, it fails to engage in "reasoned decisionmaking." According to the Supreme Court, an agency rule would be arbitrary and capricious if the agency has:

relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could be not be ascribed to a difference in view or the product of agency expertise.³⁵

Each of these failings is documented in this Petition, e.g., the rejection of objections of those with 911 experience as

³⁵ *Motor Vehicles Manufacturers Association v. State Farm Mutual Auto Insurance Co.*, 463 U.S. 29, 43 (1983).

"speculative" while relying on the clear speculation as to benefits to make "public interest" findings.

Just as the Order fails to satisfy the judicial standard of "reasoned decisionmaking," it fails to comply with the requirements of the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq., which governs the rulemaking process. Perhaps most importantly the Order fails to satisfy the requirements of 5 U.S.C. § 553(a), pertaining to the statement of basis and purpose. As Davis and Pierce explain,

To have any reasonable prospect of obtaining judicial affirmance . . . an agency must set forth the basis and purpose of the rule in a detailed statement . . . in which the agency refers to the evidentiary basis for all factual predicates, explains its method of reasoning from factual predicates to the expected effects of the rule, relates the factual predicates and expected effects of the rule to each of the statutory goals or purposes the agency is required to further or to consider, responds to all major criticisms contained in the comments on its proposed rule, and explains why it has rejected at least some of the most plausible alternatives to the rule it has adopted. See, e.g., *American Gas Assn v. FERC*, 888 F.2d 136 (D.C.Cir. 1989); *Mobil Oil Co., v. DOE*, 601 F.2d 796 (TECA 1979), cert. denied, 446 U.S. 937 (1980); *National Tire Dealers & Retreaders v. Brinegar*, 491 F.2d 31 (D.C. Cir. 1974).³⁶

The *N11 Order* fails to comply with these fundamental requisites. It lacks a factual predicate. It fails to

³⁶ Davis, Kenneth and Pierce, Richard J., *Administrative Law Treatise*, Vol. I, § 7.4, "The Relationship Among Comments, Statement of Basis and Purpose, and Arbitrary and Capricious," at 310-311 (1994).

provide and explain the Commission's underlying reasoning. Apart from vague references to "the public interest," the Order fails to tie the "expected effects" of the rule to the Commission's statutory goals or purposes. It fails to respond to major criticisms and fails to explain why the Commission has rejected at least some of the most plausible alternatives.

WHEREFORE, THE PREMISES CONSIDERED, the International Association of Fire Chiefs, Inc. and the International Municipal Signal Association respectfully request that the Federal Communications Commission reconsider its Order that Bellcore, as the NANP administrator, assign 311 as a national code for access to non-emergency police and other government services as of March 28, 1997.

Given the Commission's inability to substantively respond to fundamental concerns raised by parties opposed to the 311 assignment, it should reject three-digit (N11) calling for non-emergency calls in favor of a technically-feasible alternative. As written, the *N11 Order* is certain